

FILED

June 7 2007

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN THE MATTER OF THE ESTATE OF

HERMAN BOUMA,

Deceased.

PR06-0120

ORDER

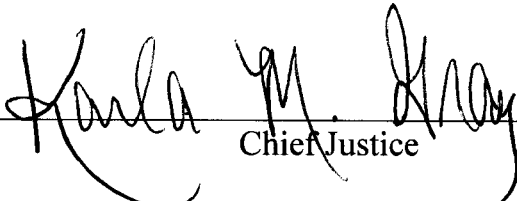
A motion for disqualification having been filed in Teton County Cause No. DP-06-014,

IT IS ORDERED:

1. Pursuant to § 3-1-805, MCA, the Honorable Kenneth R. Neill, District Judge of the Eighth Judicial District, Cascade County, is hereby assigned to hear the disqualification proceeding.

2. The Clerk is directed to mail a true copy of this order to the Honorable Laurie McKinnon, the Honorable Kenneth R. Neill, and the Clerk of the District Court of Teton County, Montana, for notification to all counsel of record in Teton County Cause No. DP-06-014.

DATED this 7th day of June, 2007.



Chief Justice

FILED

JUN 07 2007

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

PRU 6-01 20

DISTRICT COURT

In Chambers
LAURIE MCKINNON
District Judge
(406) 424-8360 ph.
(406) 466-2277 ph.
(406) 466-2877 fax.

Ninth Judicial District
State of Montana

*Teton, Pondera, Toole
and Glacier Counties*

Box 822, Shelby, MT 59474
Box 610, Choteau, MT.59422

The Honorable Karla M. Gray, Chief Justice
Montana Supreme Court
Room 414, Justice Bldg.
215 N. Sanders
P.O. Box 203003
Helena, MT. 59620-3003

Re: In The Matter of The Estate of Herman G. Bouma, Cause No.: DP-06-014

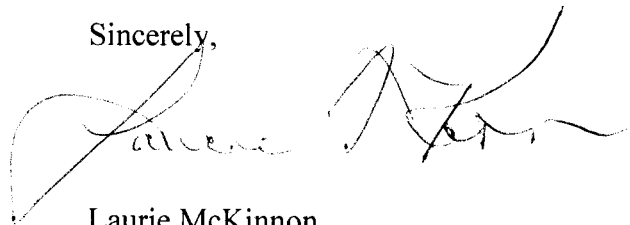
Dear Justice Gray,

I am enclosing documents filed pursuant to section 3-1-805, MCA (2005), requesting that I be disqualified for cause from the above-captioned matter. The documents include a Certificate of Counsel and an Affidavit of Edward Bouma. I have also issued an Order Staying Proceedings until a ruling has been made by the Supreme Court.

There is additionally pending in your Court in this same matter a Writ of Supervisory Control.

If you have any questions, please give me a call.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Laurie McKinnon', is written over a horizontal line.

Laurie McKinnon

cc: Warren Wenz, Esq.
Dan Shannon, Esq.
Jeffrey Mora, Esq./Stephanie Oblander, Esq.
District Court file

FILED

Daniel E. Shannon
CONNER, SHANNON & PINSKI, PLLP
520 3RD Avenue North
P. O. Box 3028
Great Falls, Montana 59403
Telephone: (406) 727-3550
Facsimile: (406) 727-1640
Attorneys for Petitioner

5-15-07 Date
[Signature] Clerk
by _____ Deputy

MONTANA NINTH JUDICIAL DISTRICT COURT, TETON COUNTY

IN THE MATTER OF THE ESTATE OF) Cause No. DP-06-014
) CERTIFICATE OF
HERMAN BOUMA,) COUNSEL PURSUANT TO
) MCA §3-1-805 ON PARTY'S
Deceased.) AFFIDAVIT TO DISQUALIFY THE
) HONORABLE LAURIE MCKINNON

DANIEL E. SHANNON, as legal counsel for Petitioner Edward Bouma, in his capacity as Petitioner for Personal Representative of the Estate of Herman Bouma, certifies as follows:

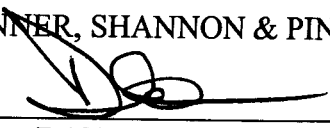
1. Petitioner Edward Bouma has filed his Affidavit in good faith asking for disqualification of the Honorable Laurie McKinnon as a result of her direct participation in the deposition of Charles Joslyn and her comments on the record regarding his testimony.
2. Counsel certifies that Petitioner has executed his Affidavit only after much thought and consideration. However, since Charles Joslyn, as Herman Bouma's former attorney, has been listed as a witness for the Parties contesting his former client's Last Will and Testament, Petitioner respectfully contends that the Honorable Laurie McKinnon is biased in favor of Charles Joslyn, a key witness for the adverse party, and against Petitioner.
3. Petitioner's Affidavit is filed with reasonable cause and is not filed with the intent to delay, hinder, or take unconscionable advantage of any other party or the court.

4. Petitioner's Affidavit is brought more than 30 days prior to the scheduled trial date.

5. This Certification is executed pursuant to Section 3-1-805, MCA.

CONNER, SHANNON & PINSKI, PLLP

BY:


DANIEL E. SHANNON

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document by the following means this 14 day of May, 2007.

Warren Wenz/Gary Bjelland
JARDINE, STEPHENSON, BLEWETT & WEAVER
P. O. Box 2269
300 Central Avenue, 7th Floor
Great Falls, Montana 59403-2269

☒ U.S. Mail
☐ Federal Express
☐ Facsimile
☐ Hand Delivery

Jeff Mora
SMITH, OBLANDER & MORA
P. O. Box 2685
104 Second Street South, Suite 101
Great Falls, Montana 59403-2685

☒ U.S. Mail
☐ Federal Express
☐ Facsimile
☐ Hand Delivery

Honorable Laurie McKinnon
Montana Ninth Judicial District Court
Teton County Courthouse
1 Main Avenue South
P. O. Box 487
Choteau, MT 59422-0487

☒ U.S. Mail
☐ Federal Express
☐ Facsimile
☐ Hand Delivery


Colleen Kornder-Owen

Daniel E. Shannon
CONNER, SHANNON & PINSKI, PLLP
520 Third Avenue North
P. O. Box 3028
Great Falls, MT 59403-3028
Telephone: (406) 727-3550
Facsimile: (406) 727-1640
Attorneys for the Estate of Herman Bouma, Deceased
Edward Bouma, Nominated Personal Representative and Petitioner

FILED

5-15-07 Date
[Signature] Clerk
by _____ Deputy

MONTANA NINTH JUDICIAL DISTRICT COURT, TETON COUNTY

IN THE MATTER OF THE ESTATE OF)	Probate No. DP-06-014	85-
)		
HERMAN G. BOUMA,)	AFFIDAVIT OF EDWARD W. BOUMA	
)	REGARDING	
Deceased.)	DISQUALIFICATION OF JUDGE	

STATE OF MONTANA)
 : ss.
County of Cascade)

Edward W. Bouma, being first duly sworn, upon oath, deposes and states:

1. Affiant is the nominated Personal Representative and Petitioner in the above captioned action;
2. Affiant is the son of Herman G. Bouma, Deceased;
3. Affiant believes that Judge McKinnon is biased and/or prejudiced against Affiant and his position in this matter;
4. Affiant bases this belief on Judge McKinnon's participation in the deposition of Charles Joslyn on March 13, 2007.

5. Judge McKinnon convened the deposition of Charles Joslyn on March 13, 2007 by order of the Court.

6. Judge McKinnon had ex parte communication with Charles Joslyn prior to his deposition.

7. During the deposition of Charles Joslyn, Judge McKinnon advised Charles Joslyn of his Fifth Amendment rights.

8. During the deposition of Charles Joslyn, Judge McKinnon advised Charles Joslyn not to answer certain questions.

9. During the deposition of Charles Joslyn, Judge McKinnon did not allow counsel to respond on record to the Court's ruling. (Deposition Charles Joslyn, p.54, ll. 4-5)

10. Judge McKinnon asked questions of Charles Joslyn during the deposition.

11. On the record the Judge made the statement that she was "not willing to go there." (Deposition of Charles Joslyn, p.12, l.14)

12. Judge McKinnon stated on the record that Mr. Joslyn had his deposition taken "in a very unpleasant environment" where it was witnesses own lack of cooperation which caused the conflict so much so that counsel asked on the record if it was wrong to bring the proceeding. (Deposition of Charles Joslyn, p.53, ll. 18-23);

13. Affiant can think of no other reason for the Judge's comments other than the Court has a personal bias toward Charles Joslyn and against Affiant.

14. Affiant wishes he did not have to file this Affidavit, but he must ask that Judge McKinnon be disqualified for cause and that this case be assigned to a different District Court Judge.

Further Affiant sayeth not.

DATED this 14 day of May, 2007.

Edward W. Bouma
EDWARD W. BOUMA

SUBSCRIBED AND SWORN to before me this 14 day of May,
2007.

Colleen Koender-Owen
Notary Public for the State of Montana
Printed Name: Colleen Koender-Owen
Residing at: Great Falls, MT
My Commission expires: 5/13/2011

(NOTARIAL SEAL)

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document by the following means this 14 day of May, 2007.

Warren Wenz/Gary Bjelland
JARDINE, STEPHENSON, BLEWETT & WEAVER
P. O. Box 2269
300 Central Avenue, 7th Floor
Great Falls, Montana 59403-2269

☒ U.S. Mail
☐ Federal Express
☐ Facsimile
☐ Hand Delivery

Jeff Mora
SMITH, OBLANDER & MORA
P. O. Box 2685
104 Second Street South, Suite 101
Great Falls, Montana 59403-2685

☒ U.S. Mail
☐ Federal Express
☐ Facsimile
☐ Hand Delivery

Honorable Laurie McKinnon
Montana Ninth Judicial District Court
Teton County Courthouse
1 Main Avenue South
P. O. Box 487
Choteau, MT 59422-0487

☒ U.S. Mail
☐ Federal Express
☐ Facsimile
☐ Hand Delivery


Colleen Kornder-Owen